

REMARKS

Upon entry of the present amendment, claims 1-10 and 14-25 are pending in the application, of which claims 1, 18 and 24 are independent. Claims 1, 9, and 18 are being amended, and new claims 24 and 25 are being added by the present amendment.

Applicant respectfully submits that the above amendments are fully supported by the original disclosure, including the drawings, claims and abstract. Applicant further respectfully submits that no new matter is introduced by the amendments made herein.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Telephone Interview

Initially, the applicant would like to thank Supervisory Patent Examiner Dickson (SPE) for the helpful and courteous telephonic interview conducted with applicant's representative on 15 July 2004. During the interview the above amendments were discussed, and while agreement was reached that applicant's proposed new claim language would distinguish over the art, SPE Dickson raised a new concern that he had regarding sufficiency of the disclosure.

Applicant's current understanding of the SPE's position is summarized as follows:

- A) The SPE has reviewed the application and the Examiner's last rejections in the Office Action of March 29, 2004. The SPE tends to agree with these rejections, because it is the Examiner's position that Mihm's structure broadly includes a "pocket extending inwardly of the air bag". However, the SPE recognizes that the present invention is

structurally different than the applied references, and believes that the proposed further modification to independent claims 1 and 18, discussed in the telephone interview and effected by the present amendment, distinguishes over the applied references (including Mihm).

- B) From his review of the application disclosure, the SPE perceives another problem-issue that was not previously addressed by the Examiner, i.e., the SPE is concerned that the disclosure of the inwardly extending pocket in Figs. 1-6 may not meet the requirements of 35 USC 101 (non-statutory subject matter) because, according to SPE Dickson, there is not sufficient disclosure of structure which would/could retain the pocket extending inwardly of the air bag when inflated with gas, such that it appears that the pocket would protrude outwardly from the air bag similar to what is shown in Fig. 8, and it is not clear from the disclosure how such a protruding air bag could function to receive an the top of a child safety seat therein as claimed; and
- C) The embodiment of Fig. 7 is not affected by the new issue problem discussed above, because the strap 63 is appropriate to retain the pocket inwardly of the air bag, but to overcome the new issue problem, the SPE suggests it may be necessary to cancel/delete all of the disclosed embodiments (and associated discussion) except for that of Fig. 7.

As regards items B and C, above, the applicant respectfully disagrees, and traverses the rejection under 35 USC 101. The applicant respectfully submits that the inwardly extending pocket does meet the requirements of 35 USC 101, since the embodiments of Figs. 1-6 and 8 would function appropriately according to the original disclosure for reasons as discussed at page 13, lines 8-24 of the specification.

Specifically, when deployed in a vehicle having a child safety seat therein, the inflating air bag would contact the top of the child safety seat before it is fully inflated and before the pocket becomes protruded, and such contact would force the pocket inwardly within the air bag. Thus, the applicant does not need to amend claims based on Figs. 1-6 and 8 from the application (or to amend claim 1 to define the strap) to address this concern.

Furthermore, in the invention, a pocket portion usually contacts an obstacle, such as a top portion of the child safety seat as shown in FIG. 1, before a pocket would protrude outwardly from the air bag. Even if the pocket portion were to protrude outwardly from the air bag, the pocket portion would reverse itself and extend inwardly of the air bag upon contact pressure from the obstacle, since the pocket portion is more flexible than other portions of the air bag.

Claim Objections

In the above-identified Office Action, Claim 9 was objected to because of informalities. These informalities have been corrected by the amendment herein to claim 9. Specifically, claim 9 has been amended to recite "air bag at the other end thereof" as suggested by the Examiner. This amendment obviates the objection to this claim.

Rejection Under 35 USC §102

In the above-identified Office Action, the Examiner rejected claims 1-3, 5, 6, 9, 10, 18 and 20-23 under 35 U.S.C. 102(b) as being anticipated by Mihm et al. (US 5,306,043).

The applicant notes that the patent number associated with the Mihm et al. patent cited by the Examiner is not US 5,584,508, as stated on page 2 of the Office Action, since this number is associated with Maruyama et al. It is applicant's understanding and belief that Examiner Dickson refers to 5,306,043 in his rejection of the claims.

The Examiner states that Mihm discloses an air bag 12 in a folded state under and upper surface of an instrument panel for inflation when a crash occurs, wherein the air bag has a pocket 48 extending inwardly at a lower surface of the air bag which is oval in shape, and that a strap 94 is sewn to the bottom of the pocket and to the inside of the upper surface of the air bag at another end thereof.

The applicant has carefully considered the Examiner's rejections, as well as the full disclosure of Mihm, and respectfully disagrees with these rejections, because the folded area defined by Mihm's bend pleat 48 does not include or suggest features required by each of the claims, nor does it achieve or suggest the advantageous function of the pocket according to the present invention.

For example, the folded area defined by Mihm's bend pleat 48 is not "a pocket *extending inwardly inside* of the air bag", as required by claim 1. The bend pleat 48 of Mihm's air bag is formed by sewing seams 90, 92 in only one (main) fabric panel 40 of the air bag, such that the folded area depicted and described by Mihm does not *extend within* the single fluid cavity 50 of the inflated air bag. The applicant respectfully asserts that the pleat of Mihm does not have closed sides, as disclosed by the applicant. Instead, the folded area of Mihm is disposed between folded sections of the air bag due to the presence of the pleat.

Further, the folded area formed by Mihm's pleat 48 does not have a pocket opening portion (with a predetermined opening area) for *receiving* a top of a child safety seat as required by claims 6 and 18, which corresponds to an important aspect of the invention. Rather, the seams 90, 92 of bend pleat 48 *close the lower surface* of the folded space defined by the pleat as plainly depicted in Mihm's Figs. 1, 2, 4, 5; and although lateral sides of the closed space may be technically considered as "open", a top of a child safety seat would not be received therein

because of the disposition at lateral sides of the air bag, and (more significantly) because the bend pleats L, M, N do not extend fully across the width of the fabric tube such that edges of the fabric tube in the vicinity of the bend pleat are drawn inward toward the bend pleat to give a slightly rounded configuration, as discussed at his col. 8, lines 46-61. In other words, even though the folded space formed by the bend pleat 48 is open at lateral sides of the air bag, such open lateral sides could not receive anything therein, because the adjacent portions of the air bag are drawn in towards the open lateral sides to give the slightly rounded configuration.

As regards claims 6, 9, and 18, the applicant respectfully disagrees with the Examiner's assertion that Mihm's closed space defined by the bend pleat 48 has a strap connecting a bottom portion thereof to an upper surface of the air bag, as required by applicant's claims 6 and 18. In this regard, the Examiner asserts that such a strap is shown in Mihm's Fig. 2 at 94. The applicant disagrees, since, while Mihm discloses the (a single) tether 94, this tether is not connected to the bottom of the closed space defined by his bend pleat, as depicted and disclosed throughout Mihm's disclosure.

Mihm's Fig. 2 presents a split image, half of which is in solid lines to clearly represent the inflated structure of the air bag and the other half of which is in broken/shadow lines for the purpose of depicting some otherwise hidden structure. The half of Fig. 2 depicted in solid lines plainly shows that the tether 94 is not connected to the closed space defined by the bend pleat 48, but is connected to a portion of the air bag panel rearward of the closed space. This is fully consistent with the depiction of the tether 94 in Figs. 1, 4, 5, as well as with the discussion of the tether in Mihm's specification.

Rejection Under 35 USC §103

Also in the above-identified Office Action, the Examiner rejected claims 7, 8 and 14-17

under 35 USC 103(a) as being unpatentable over Mihm. The Examiner states the Mihm discloses the invention except does not disclose specific pocket depth, shapes and opening areas, but that such specifics are within routine skill in the art.

The applicant respectfully disagrees with, and traverses the rejections of these claims under section 103. The applicant asserts that Mihm's air bag with its bend pleat 48 does not include or make obvious features of the dependent claims since a folded panel, as disclosed by Mihm, does not lend itself to having a pocket depth, or having pocket shapes, including conical, semi-oval, and cylindrical with a circular bottom. The applicant asserts that pleats are not generally provided in geometric shapes, and thus such shapes are not within routine skill in the art. Thus, claims 7, 8, and 14-17 are considered to be in condition for allowance.

The Examiner has rejected claims 4 and 19 under 35 USC 103(a) as being unpatentable over Mihm as applied to claims 1 and 18 and further in view of Maruyama et al (US 5,584,508). The Examiner states that Mihm discloses an exhaust hole for venting gas, but not in the vicinity of a pocket. Maruyama, the Examiner asserts, does disclose venting gas from an air bag to soften the occupant impact. The Examiner then concludes that it would be obvious to modify Mihm to add an exhaust hole near the pocket for venting gas.

The applicant respectfully disagrees with this rejection for the reasons discussed above in relation to claims 1 and 18, and further because the proposed modification of Mihm's air bag relative to a select feature of Maruyama's air bag is improperly based on a suggestion coming entirely from hindsight of the present disclosure, rather than from any teaching or suggestion which may be fairly gleaned from the references themselves. Given that the space defined by Mihm's bend pleat 48 does not extend into the single fluid cavity 50 and is otherwise open at the

lateral sides thereof, there is no reason or motivation for the proposed modification.

Other Matters

Although the applicant disagrees with the rejections of the claims as discussed above, and has presented arguments that substantiate that position, claims 1 and 18 have been amended herein to more clearly recite the features of the applicant's invention, and to place the application in condition for allowance. Claims 1 and 18 now recite that "the pocket has an opening portion disposed at a lower surface of the air bag." This feature is not disclosed by the prior art references, and more clearly defines the applicant's invention over the prior art.

New claims 24 and 25 have been added to the application. Independent claim 24 includes the features recited in claim 1, and further recites that the pocket includes a body portion "having sidewalls extending from the opening portion such that the sidewalls are spaced apart and distinct from the outer surface of the air bag."

Claim 25 depends from claim 24 and further recites that the pocket includes sidewalls that form a closed section. These features are supported by the applicant's disclosure, with special reference to the figures. These claims highlight that the applicant's claim of a pocket is clearly different than the folded fabric panel disclosed by Mihm et al., since the applicant's pocket includes sidewalls that are distinct from the body of the air bag, and which are spaced apart from the body of the air bag. These features are not disclosed by Mihm et al, or other prior art references. Thus, new claims 24 and 25 are considered to be in condition for allowance.

The additional reference cited by the Examiner, Haland et al. (GB 2,270,834), has been considered but it is respectfully submitted that this additional references fails to overcome the deficiencies of the Mihm et al. and Maruyama et al. references as discussed above in relation to the present claims.

Conclusion

In conclusion, applicant has overcome the Examiner's rejections as presented in the Office Action; and moreover, applicant has considered all of the references of record, and it is respectfully submitted that the invention as defined by each of the present claims is clearly patentably distinct thereover.


The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expedite prosecution of the application.

The Commissioner is hereby authorized to charge \$104.00, for one additional independent claim in excess of three and for one additional dependent claim in excess of 20, to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. The Commissioner is further authorized to charge any deficiency, or to credit any overpayment, to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. A duplicate copy of this sheet is enclosed.

Favorable reconsideration is respectfully requested.

Respectfully submitted,


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I hereby certify that this correspondence is being transmitted, via facsimile, to Examining Group 3616 of the United States Patent and Trademark Office on July 28, 2004, at the number (703) 872-9306.

